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N.J. BOARD OF DENTISTRY
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF DENTISTRY

IN THE MATTER OF

GARY J. REBA, D.M.D.
License No. 22DI00917800

LICENSED TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

The New Jersey State Board of Dentistry ("Board") entered a Provisional Order of Discipline on January 17, 2008, based on its review of information that Gary J. Reba, D.M.D. ("Dr. Reba" or "respondent"), had pled guilty to theft by deception in the third degree in violation of N.J.S.A. 2C:20-4 and falsifying records in the fourth degree in violation of N.J.S.A. 2C:21-4a, and information that respondent had entered into a consent order with the Office of the Insurance Fraud Prosecutor regarding submission of inaccurate claims to third party payors.

On March 26, 2008, in response to the Provisional Order, Dr. Reba, through counsel, submitted a letter asking the Board to reconsider the sanctions provisionally imposed. In support of his request, respondent asserted that his employees had engaged in the conduct underlying the charges (submitted claims with dates not reflecting actual dates of service in order for patients to secure benefits otherwise unavailable). Further, he argued that he had pled guilty to the charges because his health had deteriorated due to the stress of the proceedings and that he felt he could not proceed.

The deputy attorney general prosecuting the matter responded by letter dated September 5, 2008. The deputy, while noting the Board had discretion to modify its

sanctions in light of the mitigation offered, stated that the dentist had knowingly and voluntarily entered into the plea agreement on the criminal charges and had agreed to the civil settlement with the Office of the Insurance Fraud Prosecutor.

The Board has fully considered the information submitted and is not persuaded that the mitigation offered warrants a modification of the provisional sanction. Respondent may not before this Board refute the plea he entered to the charges of theft by deception and falsifying records. That plea, knowingly and voluntarily entered, resulted in his being placed on probation (subject to early release) for two years. Respondent's reasons for making that choice do not change the conduct that precipitated the charges. Moreover, even were the Board to accept respondent's arguments that his employees submitted the inaccurate claims without his knowledge, it does not alter Dr. Reba's responsibility for the accuracy of submissions for reimbursement to third party payors.

Both the conviction and the entry of a consent order provide a basis for discipline. The sanction here imposed, a three year suspension, six months of which is an active period of suspension, reflects the Board's determination that insurance fraud is a serious matter warranting a significant sanction. Because respondent may have patients who would benefit from a brief period prior to the initiation of respondent's active suspension, to complete or provide for transitional treatment, the Board has modified its provisional discipline to provide that the suspension imposed by this order will commence thirty days after its entry.

Respondent shall follow the directives applicable to dentists whose licenses have been suspended or revoked, which are attached to this Final Order.

Therefore, the Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Respondent is a dentist in the State of New Jersey and has been a licensee at all times relevant to this order. Respondent's license is currently in active status.

2. On or about April 27, 2007, respondent entered into a consent order with New Jersey Office of the Insurance Fraud Prosecutor. In the order, respondent acknowledged that his employees prepared and submitted to various insurance carriers claims reflecting inaccurate dates of dental care, thus enabling patients to obtain insurance coverage and reimbursement for dental care that they would not have otherwise been entitled to due to contract restrictions. Respondent agreed to pay a civil administrative penalty in the amount of \$75,00.00. Respondent also acknowledged that the consent order may be used against him in any civil or administrative proceeding related to a violation of N.J.S.A. 17:33A-1 et seq., including a license suspension or revocation proceeding.

3. On or about April 27, 2007, respondent pled guilty to and was convicted of N.J.S.A. 2C:20-4, Theft by Deception in the third degree, and N.J.S.A. 2C:21-4a, Falsifying Records in the fourth degree, related to respondent's submission of claims to various insurance companies reflecting inaccurate dates of dental care, thereby enabling patients to obtain insurance coverage and reimbursement for said dental care that they would not have otherwise been entitled to due to contract restrictions. Respondent was sentenced on June 22, 2007, to two years probation and payment of fines and penalties.

CONCLUSIONS OF LAW

1. The above findings of fact establish a basis for disciplinary action against respondent's license, pursuant to N.J.S.A. 45:1-21(f), in that respondent's guilty plea to

N.J.S.A. 2C:20-4, Theft by Deception in the third degree, and N.J.S.A. 2C:21-4a, Falsifying Records in the fourth degree are acts constituting crimes or offenses involving moral turpitude and relate adversely to the activity regulated by the Board.

2. The above findings of fact establish a basis for disciplinary action against respondent's license, pursuant to N.J.S.A. 45:1-21(k), in that respondent has violated a provision of N.J.S.A. 17:33A-1 et seq. and has been subject to a final order entered in an administrative proceeding that imposed civil penalties.


ACCORDINGLY, IT IS ON THIS 5th DAY OF DECEMBER, 2008

ORDERED that:

1. Respondent is hereby reprimanded for the violations as detailed above.
2. The license of Gary Reba, D.M.D., to practice dentistry in the State of New Jersey is suspended for a period of three (3) years, effective thirty days following the filing of this Final Order of Discipline, which suspension shall be six months active and the remainder served as a period of probation. Respondent shall appear before the Board prior to reinstatement and demonstrate that he is fit to practice dentistry in the State of New Jersey.
3. Respondent shall be subject to random audits at the request of the Board or representatives of the Enforcement Bureau of the New Jersey Division of Consumer Affairs, at respondent's sole expense, during the period of probation. Respondent shall cooperate fully with the Board or its representatives in connection with such audits.
4. Respondent shall comply with the terms of his criminal probation. If respondent fails to comply with the criminal probation the stayed suspension shall become active.

5. If during the period of probation, respondent is found to have violated any act or regulation administered by the Board, in addition to any penalty imposed by the Board for that violation, any period remaining of the stayed suspension shall become active.

NEW JERSEY STATE BOARD OF DENTISTRY



Alexander Hall, D.M.D.
Board President

**DIRECTIVES APPLICABLE TO ANY DENTISTRY BOARD LICENSEE
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license has been accepted by the Board, shall conduct him/herself as follows:

1. Document Return and Agency Notification

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate, and if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances Registration. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of dentistry in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry. The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee of this Board provides health care services. Unless otherwise ordered by the Board, the disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from all prescription blanks and pads, professional listings, telephone directories, professional stationery, or billings. If the licensee's name

is utilized in a group practice title, it shall be deleted.

Prescription pads bearing the licensee's name shall be destroyed. A destruction report form shall be obtained from the Office of Drug Control (973-504-6558) and filed with that office. If no other licensee is providing services at the practice location, all medications must be removed and returned to the manufacturer (if possible), or destroyed or safeguarded. In situations where the licensee has been suspended for a period of less than one year, prescription pads and medications must be secured in a locked place for safekeeping.

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice, and shall be required to comply with the requirements to divest him/herself of all financial interest in the professional practice pursuant to Board regulations contained in N.J.A.C. 13:30-8.21. Such divestiture shall occur within 90 days following the entry of the Board Order. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the New Jersey Department of Treasury, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to patient records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her patient record or asks that the record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

6. Reports of Reimbursement

A disciplined practitioner shall promptly report to the Board his/her compliance with each directive requiring monies to be reimbursed to patients to other parties or third party payors or to any Court.

7. Report of Changes of Address

A disciplined practitioner shall notify the Board office in writing within ten (10) days of change of address.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Dentistry are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a dentist:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the American Association of Dental Examiners, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board. In addition, the same description may appear on the Internet Website of the Division of Consumer Affairs.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.